

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, et al.)	
<i>ex rel.</i> Tricia Nowak & Enda Dodd)	
)	
)	
Plaintiffs,)	Case Nos. 1:08-cv-10368 and
)	09-cv-11625 (DPW)
v.)	
)	
MEDTRONIC, INC.)	
)	
Defendant.)	
)	

**UNITED STATES OF AMERICA'S MOTION FOR LEAVE TO FILE
RESPONSE TO DEFENDANT'S SUPPLEMENTAL BRIEF**

The United States hereby requests leave of court to file, pursuant to 28 U.S.C. § 517, the attached Response to Defendant's Supplemental Brief. While the United States has not intervened in this action brought under the False Claims Act, 31 U.S.C. §§ 3729 *et seq.* ("FCA"), it remains a real party in interest. It seeks leave, previously having filed a Statement of Interest on the pending motion to dismiss, to address a number of points and assertions made in the defendant's proposed Supplemental Brief that specifically concern federal programs.

WHEREFORE, the United States respectfully requests leave of court to file the attached Response to Defendant's Supplemental Brief.

Respectfully submitted,

TONY WEST
Assistant Attorney General

CARMEN M. ORTIZ
United States Attorney

/s/ Donald J. Savery
DONALD J. SAVERY
United States Attorney's Office
John Joseph Moakley United States
Courthouse
One Courthouse Way, Suite 9200
Boston, Massachusetts 02210
phone:(617) 748-3336
fax: (617) 748-3971
email: donald.savory@usdoj.gov

JOYCE R. BRANDA
ALAN E. KLEINBURD
ADAM J. SCHWARTZ
Attorneys, Civil Division
United States Department of Justice
P.O. Box 261, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-6831
Facsimile: (202) 514-0280

Counsel for the United States

Dated: December 17, 2010

L.R. 7.1(A)(2) Certification

The undersigned counsel for the United States of America hereby certifies that he conferred with counsel for the parties in an effort to narrow the issues herein. The relator filed an opposition to Medtronic's motion for leave to file, but does not oppose the filing of this brief in response if the Court sees need to allow additional briefs. Counsel for Medtronic, Inc., has no opposition to this motion.

/s/ Donald J. Savery
DONALD J. SAVERY
Assistant U.S. Attorney

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on December 17, 2010.

/s/ Donald J. Savery
DONALD J. SAVERY
Assistant U.S. Attorney